IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 4115 of 2005

Between:

1. The Director of Accounts (Postal), Hyderabad.
2. The Postmaster-General, Vijayawada Region, Vijayawada.
3. The Superintendent of Post Offices, Gudur Postal Division Gudur.
4. The Chief Postmaster General, A.P.Circle, Hyderabad.
5. The Secretary to the Department of Posts, New Delhi.

..... PETITIONERS

AND

V.S. Munirathnam S/o.Subbaiah
R/o. of Kayampet Village, Brahmanapalli BO

In account with Vadamalpet, Nellore District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue preferably a writ in the nature of Certiorari or any appropriate writ, order or direction, calling for the records pertaining to O.A.No.165/2003 dt.24.9.2004 on the file of the Hon'ble Central Administrative Tribunal at Hyderabad and quash the same and pass such further (or) other orders (or) orders.

Counsel for the Petitioner: MR.A.RAJASHEKAR REDDY (ASSISTANT SG)

Counsel for the Respondent:

The Court at the admission stage made the following:

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ORDER: (Per Hon'ble Sri Justice G. Bikshapathy)

The writ petition is filed by the Government assailing the order passed by the Central Administrative Tribunal, Hyderabad in O.A. No.165 of 2003, dated 24.09.2004.

2. The respondent, who was the applicant before the Tribunal, filed the O.A. seeking a direction to the respondents therein herein to release the pension and other benefits consequent on his retirement. The tribunal, after considering the matter, disposed of the O.A. directing the authorities concerned to pay the retirement benefits to the applicant with 10% interest from the date of his retirement till the date of payment. Aggrieved by the said order, the present writ petition has been filed.

3. The learned standing counsel for Central Government submits that the petitioner was retired from service on 31.07.2000. But, however, he was involved in a criminal case in C.C.No.315 of 1999 and therefore, by virtue of the provisions contained in Rule-9 (1) & (2) (a) of CCS (Pension) Rules, 1972, it is open for the authorities concerned to withhold the pension.

The tribunal discussed this issue in paragraph 5 of its order, which is extracted below:

> "At the time of arguments, the learned counsel for the applicant submitted that the respondents have released all the retiral benefits to the applicant only on acquittal of the applicant and his other family members in CC No.315/99 pending on the file of the Judicial First Class Magistrate Court, Gudur by the judgment dated 13.02.2004. He, therefore, submitted that the applicant is no

confining his relief only for award of interest at 18% p.a. for delayed payment of his retiral amounts such as gratuity, commutation of pension, and leave encashment amounts. It is an undisputed fact that no departmental action is initiated against him either while he was in service or after his retirement for any violation of Conduct Rules or on grounds of misconduct, etc. When no such departmental enquiry is pending against the applicant, we are unable to understand how the respondents were justified in withholding the payment of retiral benefits to the applicant after his retirement from service. As rightly pointed out by the learned counsel for the applicant, the pendency of the above referred criminal case has nothing to do with the discharge of the official duties of the applicant during his service, particularly, when no disciplinary proceedings are initiated against the applicant. We, thus, find that the inaction of the respondents in not releasing the retiral benefits on the date of his retirement is not justified. We, therefore, find that the applicant is entitled for interest on delayed payment of gratuity, value of commutation of pension, leave encashment amount. The respondents are, therefore, directed to pay interest at the rate of 10% per annum from the date of retirement i.e. 01.08.2000 till the actual date of payment on the said amounts. The learned standing counsel for the respondents has produced a letter issued by the Assistant Director, O/o Post Master General, Vijayawada showing the various dates of payment on which amounts were paid to the applicant by way of retiral benefits and it is taken in record."

4. We have also heard the learned counsel for the respondent and also perused the order.

5. We do not find any reason to interfere with the order. However, the learned Standing counsel for Central Government submits that imposing of 10% interest is highly arbitrary and excessive. We are unable to accept the contention raised by the Central Government. However, in similar cases, the *Supreme* Court has awarded the interest at 12% interest, and thus, we do not find any merits in the writ petition.

6. Accordingly, we dismiss the writ petition. No costs.

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(G. BIKSHAPATHY, J)

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(P.S. NARAYANA, J)

Date: 04.03.2005

Ksn

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Director of Accounts (Postal), Hyderabad.
2. The Postmaster-General, Vijayawada Region, Vijayawada.
3. The Superintendent of Post Offices, Gudur Postal Division Gudur.
4. The Chief Postmaster General, A.P. Circle, Hyderabad.
5. The Secretary to the Department of Posts, New Delhi.

6. The Registrar, Central Administrative Tribunal, Hyderabad.

7. 2 CD copies

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